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Larry M. Weil, Planning and Community Development Director
Tim Solberg, Senior Planner
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
October 12, 2015 at 7:00 P.M.
West Fargo City Hall

Members Present: Connie Carlsrud
 Scott Diamond
 David Gust
 LeRoy Johnson
 Joe Kolb
 Tom McDougall
 Eddie Sheeley
 David Zupi

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Matt Welle, Dustin Scott, Matt Marshall, Kyle McCamy, Christian Tvedten, Jess Engel, Jeff Hunt, Carolyn Molland, Sam Wilke, Shelley Rice, Janet Redington, Dave Glessner, Ted Hall, Roger Fenstad, John Nore, Brian Hage

The meeting was called to order by Chair McDougall.

Commissioner Diamond made a motion to approve the September 14, 2015 meeting minutes as written. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-46 Brooks Harbor 5th Addition, Subdivision; Rezoning from Agricultural to C: Light Commercial Lot 1, Block 1 and Lot 1 Block 2 of Brooks Harbor 1st Addition and from Agricultural to R-1SM: Mixed One & Two Family Dwellings, R-1: One & Two Family Dwellings, R-2: Limited Multiple Dwellings, C-OP: Commercial Office Park, and P: Public Facilities property in the N½ of Section 19, T139N, R49W, City of West Fargo, North Dakota; and Land Use Plan Amendments from Low Density Residential to Office Park, from Low Density to Medium Density Residential property in the N½ of Section 19, T139N, R49W, City of West Fargo, North Dakota and from Medium Density Residential to General Commercial of Lot 1, Block 1 and Lot 1 Block 2 of Brooks Harbor 1st Addition, City of West Fargo, North Dakota

Larry reviewed the following information from the staff report:

The property, which is south of I-94 and west of Sheyenne Street, is currently zoned Agricultural. The area was annexed into the City in December 2005. The applicant proposes to develop the property for a church, elementary school, park, office park, city infrastructure, and future multi-family and single-family residential.

The developer has submitted an Area Plan and Preliminary Plat which shows the proposed subdivision and current development patterns in the area. The Land Use Plan depicts the area developing with Low Density Residential. The proposed land use as shown in the area plan encompasses a number of different uses for which some are consistent with the plan and others are not. Careful consideration should be given to the proposed changes to the land use plan. The applicant seeks to amend the land use plan as well for Blocks 1 and 2 of Brooks Harbor 1st Addition which are adjacent to Sheyenne Street from Medium Density Residential to General Commercial. The applicant and Economic Development Director believe that those properties are more appropriate to be developed in the future for general commercial uses as they are adjacent to a Major Arterial roadway. The applicant further believes that there will still be a need for more multiple-family within this area and would therefore wish to utilize this medium-density residential granted to this Brooks Harbor 1st Addition they propose to change over to Lot 2, Block 4 of the proposed Brooks Harbor 5th Addition.

In considering the change from Low Density Residential to Medium Density Residential as is proposed for Lot 2, Block 4 the City should consider the goals and objectives of the Comprehensive Plan as they consider a change to existing land use plan. Chapter 7 of the Comprehensive Plan under the heading "Community Development, Design, and Housing"; Goal 2.

Objective H. which states “To provide a housing development pattern with the ratio of single-family dwelling units to multiple-family dwelling units between 60 to 70% single family to 30 to 40% multiple family” provides guidance on analyzing the request.

Tim reviewed the following current development in the section:

- Total units which does not include the full build out in the Section:
 - 1602 total housing units
 - 815 total low density = 51%
 - 504 total high density
 - 283 total medium density
 - 787 total multiple family = 49%

As the section continues to build out with low density development it could be conceivable that the amount of low density will likely increase whereas there is currently no more land available for multiple-family residential. The proposed Lot 1, Block 4 to be developed as low density residential could potentially account for 342 additional low density units whereas the proposed change to Lot 2, Block 4 could potentially account for an additional 120 medium density units. These changes would skew the percentages to 56% single family and 44% multiple family. There is additional vacant land of approximately 45 acres south of Brooks Harbor within the Eaglewood development which has not been platted and is designated in the land use plan as low density residential accounting for a potential of 450 low density residential units which would skew the percentages further. If this application were approved and built to full allowable density, and Eaglewood developed at full density available to low density residential the section would be approximately 64% single-family and 36% multiple-family.

It may also be appropriate to consider that the section is to include the future development of the land north of 21st Avenue West which is not within this section, but bound by the barriers of the Sheyenne Diversion and I-94 to the north. On these properties the land use plan has designated the area developing as low density residential. In this area there is a potential for an additional 370 low density residential units. This potential development could potentially skew the section to be comprised of 69% single-family and 31% multiple-family if it were to develop at full allowable density as provided for in the existing land use plan and with the proposed amendment.

There are factors which include right-of-way, retention needs, and likelihood of development meeting full density that would indicate it would not fully develop to its potential and will more likely continue in the current pattern leaving the percentages to continue to be higher on the multiple-family side leading to inconsistency with the land use plan.

Larry stated that Block 1 and Block 2 of Brooks Harbor 1st Addition are already designated for medium density residential in the Land Use Plan and these 2 properties account for approximately 10.05 acres for which the applicant is proposing to change to general commercial therefore reducing the amount of land designated to multiple-family residential.

The zoning requested for the development is R-1: One & Two-Family Dwelling for Lot 1, Block 1; P: Public for Lot 2, Block 1, Lot 1, Block 3, and Lot 2, Block 3; C-OP: Commercial Office Park for Lot 1, Block 2 and Lot 3, Block 3; R-ISM: Mixed One and Two-Family Dwelling for Lot 1, Block 4; and R-2 Limited Multiple Dwelling for Lot 2, Block 4. CO-P: Commercial Office Park and P: Public zoning adjacent to the R-1 lots to the south would require buffering per the provisions of the City Landscaping Standards found in Section 4-449-A Buffer Yard “C” consisting of either a 6’ architectural screen with 25’ buffer yard and large and small evergreens alternated with deciduous trees or a 50’ buffer yard, large evergreen trees alternated with deciduous trees, small evergreen trees, and one row of evergreen or other shrubs. R-2: Limited Multiple Dwelling zoning adjacent to the R-1A lots to the south would require buffering per the provisions of the City Landscaping Standards found in Section 4-449-A Buffer Yard “A” consisting of either a 4’ architectural screen with 10’ buffer yard and small evergreens alternated with deciduous trees or a 20’ buffer yard, small evergreen trees alternated with deciduous trees and one row of evergreen or other shrubs.

Adequate street right-of-way is shown for all local streets within the subdivision. 22nd Avenue West is proposed with a wider right of way of 70’ to accommodate 6’ paths on both sides or a 10’ on one side and standard 4’ on the opposite. A previous plat, Brooks Harbor 4th, included the dedication of 9th Street West north to 21st Avenue West. 9th Street West will act as the collector roadway for this development and future developments in the area. 21st Avenue West is important to the area plan as it would operate in similar fashion to a minor collector roadway. It has been determined that the current alignment of 21st Avenue West, east of the proposed alignment of 9th Street West would need to be abandoned as it is on top of the flood protection levees of the Sheyenne Diversion project and should not be operating as a City street.

Retention needs of the development need to be considered and engineering is reviewing this to consider if easements will be necessary to tie into the existing retention ponds in previous plats of Brooks Harbor Additions. This should be identified and accommodated prior to final plat approval.

The plat was sent to the Park District for their review of park dedication. Land was dedicated with the first subdivision with the intent of cash-in-lieu of land dedication for this subdivision. Once the City receives communication from the Park District, we will develop a park dedication agreement. The agreement should be in place prior to City Commission consideration.

Notices were sent to property owners within 150', City officials, as well as utility companies and SE Cass Water Resource District. The City has received some phone calls questioning the proposed changes to the land use plan. The City has also received written correspondence in opposition to the proposed multiple family zoning. Additional emails were received this afternoon.

Larry stated that staff recommends, following the public hearing and due consideration to public input, to consider the following alternatives:

- A. Conditionally approve the Land Use Plan amendment, Preliminary Plat, and rezoning scheme on the basis that it is consistent with the Comprehensive Plan and city ordinances. The conditions of approval include the following:
 1. A drainage and utility plan is approved by the City Engineer.
 2. Final Plat with any necessary easements including identifying if easements are necessary for storm water retention.
 3. Restrictive covenants for the development are received for filing with the plat if proposed.
 4. A subdivision improvement agreement and park dedication agreement are received.
 5. An Attorney Title Opinion is received.
 6. Certificate of Taxes is received showing taxes are current.
 7. A mailbox plan is received and approved by the Post Office.
- B. Deny the Land Use Plan Amendment from Low Density to Medium Density for Lot 2, Block 4 and allow a Low Density zoning; and conditionally approve the remaining Land Use Plan Amendments, Preliminary Plat, and rezoning scheme. The conditions of approval are as listed above.
- C. Conditionally approve the Land Use Plan amendment, Preliminary Plat, and rezoning scheme on the basis that it is consistent with the Comprehensive Plan and city ordinances with the modification of multiple family being completed as a PUD and giving due consideration to building size and orientation with reference to the impacts on the single family neighborhoods. The conditions of approval are as listed above.

Christian Tvedten, 2266 10th Street West, stated that they just built their home and specifically chose the lot for the view and access to the pond behind their home. They checked with the builder, developer, realtor and City regarding the surrounding uses and were assured it would be single family. If they'd known it was going to be commercial or multiple family, they would've chosen to build elsewhere. He stated concern with increased noise and traffic, potential for garbage/trash from apartment building dumpsters. There are a lot of kids in the neighborhood. He invited commissioners to take a look at the current view from behind his home and asked that the proposed multiple family be moved further to the north.

Jeff Hunt, 612 23rd Avenue West, stated concern multiple family and with commercial office park behind his home. He works a lot of hours and doesn't want to have to worry about his family and the type of people those uses will bring to the neighborhood. They never would've bought their home here if they'd known about this.

Carolyn Molland, 2302 10th Street West, stated she lives next to Mr. Tvedten and never would've built if she'd known about this. She's disappointed because this isn't what they were told and is concerned and afraid about the potential for apartment "riff-raff".

Sam Wilke, 612 23rd Avenue West, stated concern with the multiple family and commercial behind single family residential. He's concerned with traffic flow and lack of buffering. He understands that the school has bought land for development; however, is concerned with development that isn't residential.

Mr. Tvedten asked about property values. Commissioner Carlsrud stated that according to appraisals, property values could decrease 5% due to apartments.

Kyle McCamy, engineer for the developer, stated that the landowner has donated the church and school property. The proposed commercial office park would be Village Family Services. She's proposing a Veteran's memorial on the east side. Her intent for multiple family west of 9th Street would be townhouses or condo for individuals who may not be able to afford a single family home, but would be able to enjoy the area school and park amenities.

Commissioner Zupi asked if the developer would be amenable to moving the multiple family further north of 22nd Avenue.

Mr. Hunt stated concern with the Village involving less than desirable individuals and the increased traffic. He feels this is a poor choice placing commercial, that it'd be more appropriate elsewhere.

Mr. McCamy stated that the park is strategically placed for use by both the school and Village service center.

Chair McDougall asked about the type of multiple family housing proposed. Mr. McCamy stated possibly 4-plexes similar to those along 26th Avenue. Larry stated that medium density residential could include condos, apartments, townhouses that could either be rentals or owned.

Jess Engel, 2266 10th Street West, asked if it would be low income housing. Mr. McCamy stated it would be another option in housing style.

Tim indicated that there are buffering provisions for commercial and multiple family uses and referred to Option C listed in the recommendations regarding zoning the multiple family PUD.

Larry stated that if the property were zoned PUD instead of R-2, prior to permitting, the developer would have to submit detailed development plans including elevations, site and landscaping plans and a public hearing held with notification of area property owners.

Commissioner Gust asked if owner vs. rental could be stipulated. Larry indicated it could not. Mr. McCamy stated that the owner hasn't decided if these would be rental or owner occupied.

Mr. Tvedten stated that he drove around the metro area looking for similar developments and couldn't find them. He's concerned with apartment trash and debris blowing into the pond. Mr. McCamy stated that there are similar developments along 26th Avenue, Maple Ridge at the Preserve, Burlington and Westport Beach.

Shelley Rice, 1152 21st Avenue West, stated that it's getting harder and harder to get across to Sheyenne Street due to traffic. She also stated concern with blowing garbage as currently they're dealing with construction debris from the north.

Tim stated that Sheyenne reconstruction is scheduled for 2018 and involves Federal Funding. Without Federal Funding, the project would require significant local assessments. Meanwhile to help alleviate traffic issues, stop lights and turn lanes are currently being installed along 26th Avenue West.

There were no other comments from the public. The hearing was closed.

Commissioner Sheeley stated that the biggest issue seems to be the proposed multiple family on proposed Lot 2. PUD might be the most appropriate zoning, and initially was leaning toward B or C under staff recommendations. He stated that he's surprised no one mentioned the proposed child care center as there is a need for it in the community.

Mr. Hunt stated that he's concerned with the increase in traffic from the commercial uses in general.

Discussion was held regarding the proposed Village Service Center and Nokomis Child Care.

Commissioners Zupi and Kolb discussed Option "C" under staff recommendations and moving the multiple family further to the north, so everyone would be aware of the proposed zoning.

Commissioner Johnson stated he didn't feel right approving this as presented.

Mr. Hunt stated concern with low income services in his back yard and would prefer the commercial be moved further to the south along Sheyenne Street.

Commissioner Zupi made a motion for approval based on staff recommendation "C" with PUD zoning and moving the multiple family north of 22nd Avenue, leaving the low density residential to the south:

Conditionally approve the Land Use Plan amendment, Preliminary Plat, and rezoning scheme on the basis it is consistent with the Comprehensive Plan and city ordinances with the modification of multiple family being completed as a PUD and giving due consideration to building size and orientation with reference to the impacts on the single family neighborhoods. The conditions of approval:

1. A drainage and utility plan is approved by the City Engineer.
2. Final Plat with any necessary easements including identifying if easements are necessary for storm water retention.
3. Restrictive covenants for the development are received for filing with the plat if proposed.
4. A subdivision improvement agreement and park dedication agreement are received.
5. An Attorney Title Opinion is received.
6. Certificate of Taxes is received showing taxes are current.
7. A mailbox plan is received and approved by the Post Office.

Commissioner Gust seconded the motion. Commissioners Zupi, Carlsrud, Gust, McDougall, Sheeley, Diamond and Kolb voted aye. Commissioner Johnson voted nay. Motion carried 7-1.

Mr. Hunt stated concern with the commercial behind him and wouldn't have purchased if he'd known about this. He feels his concerns were pushed to the side.

Chair McDougall stated that the City Commission will review this on November 2nd at 5:30 pm. He encouraged property owners to work with the developer, to go to the City Commission meeting. If they left their contact information, the Planning Department could notify them regarding upcoming meetings.

Chair McDougall opened public hearing A15-47 Conditional Use Permit to allow for a portion of the lot to be used for automobile sales at 509 32nd Avenue West (Lot 3, Block 1 of Eagle Run Plaza 1st Addition, City of West Fargo, North Dakota).

Tim reviewed the following information from the staff report:

The property, which is located west of Sheyenne Street (Cass County Highway #17) and south of 32nd Avenue West, was platted and zoned for retail commercial lease space in October of 2002. In 2007, the property was replatted and rezoned to PUD: Planned Unit Development to ensure a cohesive sign and landscape plan in the development. The uses and associated regulations are subject to the underlying C: Light Commercial and CO: Corridor Overlay district standards.

On December 2, 2013 a conditional use permit was approved for auto sales on Lot 2 and Lot 12; however, the applicants changed their plans for Lot 12. In September of 2014, they applied for a conditional use permit for Lot 3. They withdrew their request and constructed a building for auto sales on Lot 2 as per the original conditional use permit. The applicant now intends to construct an auto service center on Lot 3 and would like to use part of the property as an auto sales lot for the adjacent auto sales lot. Auto service is a permitted use within the C: Light Commercial district whereas automobile sales may be permitted as a conditional use.

Access to the property is designated from a private drive via 6th Street West. A site plan was submitted showing a 3,510 square foot building, landscaping and parking. Building elevations show four drive-through overhead doors. The applicant has indicated the building will incorporate similar design elements to the existing Eagle Run Plaza of EIFS material and glass on all four sides. The building would be subject to the design guidelines of the Corridor Overlay which requires 70% non-metal surface. Parking and landscaping will be required to meet the requirements of our Ordinances prior to obtaining a certificate of occupancy.

Property owners within 350' were notified regarding this request. No comments have been received to date.

It is recommended to approve the application on the basis that the application is consistent with City plans and ordinances with the following recommended conditions:

1. Building and site will be required to meet all applicable building code and zoning district regulations.
2. Building façade is consistent with Eagle Run Plaza.

3. Applicant provide a parking plan to show that adequate parking will be available on both Lot 2 and Lot 3 for this use.

Applicant Dave Glessner stated that he and Ted Hall are available to answer any questions.

There were no comments from the public. The hearing was closed.

Commissioner Gust asked about it being a service center. Mr. Glessner stated that the building would be for service and cars for sale would be parked on the lot.

Commissioner Sheeley made a motion for approval based on staff recommendations. Commissioner Johnson seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-48 Planned Unit Development Amendment to construct a parking lot at 1918 9th Street East (Lot 5, Block 1 of Charleswood 29th Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant proposes to develop a parking lot with 105 spaces for an existing restaurant and bar on the adjacent lot. The proposed use is consistent with City Plans and Ordinances. The existing gravel parking lot is a noncompliant use as gravel parking surfaces are not allowed within the CO: Corridor Overlay district, nor has the use been approved as an amendment to the Planned Unit Development.

The existing use as a gravel parking lot is in violation of City Ordinances. The applicant has not been cited for the violation to date as staff was told by the City's Economic Development Director that they would be proposing an amendment to the approved PUD and planned to pave the lot. The applicant has submitted detailed development plans, including site and landscaping plans for a parking lot. The site plan shows a concrete parking lot which should be designed to meet the City standards for off-street parking found in Section 4-450 as well as the provisions regarding parking lots in the landscape standards found in Section 4-449-A of the City Ordinances.

Within the CO district when the property is abutting the designated streets (i.e. 9th St E) a minimum of 20' of landscaped open space is required to separate parking areas and the front lot line. In this case, the applicant is providing a 5' separation as they have indicated that the property is actually adjacent to Interstate right of way and not the adjacent right of way of 9th St E. The Interstate right of way at this location ranges from an approximate depth of 55' to 80' adjacent to the right of way and pavement edge of 9th St. E.

The applicant has provided a landscape plan with 242 plant units which exceed the requirements of 191 plant units on the 47,798 square foot lot. The property however shows 21 continuous spaces on two rows of parking in the middle of the lot which would not meet the requirement for interior landscaping on more than 20 spaces. The property is also missing a requirement of landscaping designed to buffer direct views of cars and hard surface areas when adjacent to right-of-way. Trees should be placed on the east boundary of the parking lot. The property will be accessed from the access easement platted as part of the Charleswood 29th plat to serve all interior lots.

Notices with maps were sent to City Departments and property owners within 150'. A letter was received in support of the proposed development from Charleswood Commercial Estates, LLC who is the adjacent lot owner and former owner of this lot.

It is recommended to approve the application on the basis that the application is consistent with City plans and ordinances with the following recommended conditions:

1. A landscape plan is re-submitted that meets all city requirements.
2. Open space requirements of CO: Corridor Overlay district be met if Interstate is expanded in the future or applicant provide for the required 20' of open space adjacent to the existing right-of-way.
3. Any changes to the drainage plan be received and approved by the City Engineer.
4. A construction schedule is received.
5. PUD Agreement is received.

There were no comments from the public. The hearing was closed.

Chair McDougall asked what the reasoning was for the parking along the east side. Tim stated that as the area develops, they expect to have shared parking.

Discussion was held regarding the 20' open space separation requirement.

Commissioner Kolb made a motion for approval based on staff recommendations 1-5, with a change to item #2 Open space requirements of CO: Corridor Overlay district be met and applicant provide for the required 20' of open space adjacent to the existing right-of-way. Commissioner Gust seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-49 Variance from the provisions of the CO-R: Redevelopment Corridor Overlay District standards regarding open space landscaping in required front yards for 1175 East Main Avenue (Lot 1, Block 1 of Gellers 3rd Addition), City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located on Main Avenue East between 10th and 12th Street East, has been platted and zoned for light commercial uses for a number of years. When the original subdivision was considered, a 10-foot front yard setback was required for the parking lots as part of subdivision approval to provide green space and adequate access control for the frontage road.

In May of 2002, the use was expanded to allow for construction of a building for trailer sales on the west side of the lot and for an auto/truck sales business to relocate to the previous trailer sales building on the east side of the lot. In 2002 a variance was requested to reduce the subdivision front yard setback from 10' to zero which was denied. In 2003 the adjacent building to the east (leased by Brenco) requested a variance to reduce the subdivision front yard setback from 10' to zero when considering purchasing the property and finding that the parking lot was constructed illegally with a zero setback. The application was denied.

Following the 2000 Comprehensive Plan recommendations to improve the community's identity and image, in 2005 the City established the CO-R: Redevelopment Corridor Overlay District which is intended to promote orderly development and redevelopment and safe, attractive and desirable special patterns and locations for urban land uses adjacent to major street corridors, with full regard for the importance of these corridors as major growth areas for West Fargo and as gateways to the City. Main Avenue was considered one of these corridors.

In 2009 the Board of Adjustments approved a request for variance to reduce the front yard setback requirement from 10' to zero on the property east of 12th Street East (Dave's Tire). A similar variance request had been denied in 2002. The Main Avenue Reconstruction Project was in progress which was to eliminate the frontage roads in the area and provide green space/open space in the boulevard which was viewed as adequate by the City Board of Adjustments and therefore approved. In 2011 the Board of Adjustments reconsidered and approved a request for variance to reduce the front yard setbacks for the Brenco property which was similar to the Dave's Tire property. The applicant is now re-applying for a variance to reduce the front yard setback.

The applicant constructed their current building and parking lot after obtaining a conditional use permit in 2002. The parking lot was constructed to meet the 10-foot front yard setback as required by the subdivision approval. When the property was replatted in 2011 to sell their east building to Brenco, the lot was subdivided so that they maintained a portion of their original property. As such their parking lot had a 10-foot jog between their expanded use and the portion of the original property parking lot they kept. The original parking lot was erroneously constructed at a zero setback. The applicant would like to straighten their parking lot by constructing to the zero setback, which would also increase the parking/storage area of the property. The applicant believes that the property would be easier to maintain and look better. The property to the east was granted a variance in 2011 to allow their parking lot to remain as was developed.

With the Main Avenue Reconstruction project, the frontage road was eliminated and more room provided to address drainage considerations and green space. The original purpose for requiring the front yard setback as part of the subdivision approval is no longer valid, because of the reconstruction project and elimination of the frontage road. However, the CO-R: Redevelopment Corridor Overlay District requirements are still valid and being applied throughout the Main Avenue Corridor. At question is whether this area of the corridor is unique enough to warrant special consideration.

Access to the property was originally designated from 12th Street East as direct access to the Main Avenue Frontage Road was not allowed. Recently, however, the City approved a direct access to the property from Main Avenue.

Under the Zoning Ordinance, the applicant is to provide a written application demonstrating the following:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

The applicant indicated in his application that the special conditions and circumstances that are peculiar to the property are that the lot was originally developed (east part) to the property line as opposed to leaving the required 10' and now there is a lot with uneven concrete making it difficult to maintain and causing an undesirable look. The applicant indicated that he did not concrete the lot originally, but now has to deal with what is left there. Though it appears that there are some unique characteristics regarding the property, particularly the jogged setback within the property, the business owner at the time of replating in 2011 chose to place the lot line between the properties where it is placed which created the jogged effect. The property line could have been placed at the point where the jog takes place. It appears that the justification viewed by the Board of Adjustments previously on the adjacent property to the east and the property east of 12th Street East may be a consideration, which was the elimination of the frontage road in this area and the amount of green space/open space as a result of the Main Avenue Reconstruction Project creating the desired effect for the community (adequate separation of the parking lot from the bikeway and street improvements). Certainly there are other properties on Main Avenue, particularly between 12th Street East and 17th Street East that are similar in nature, though not within the same zoning district. Some of these properties have been developed and have met the 10-foot setback while others are yet to be developed.

It appears that it would be difficult to show justification by meeting all the conditions for variance approval. The variance is not unique to the property as several properties were included in the original subdivision. There may be some hardship to the owner, though generally financial reasons are not a consideration. The variance would not harm the surrounding neighborhood, though some properties have been held to the 10-foot front yard setback. With the reconstruction of Main Avenue, the frontage road is being eliminated and, and there is adequate right-of-way to create a green space between the parking lots and the roadway.

Area property owners within 150' of the variance have been notified, and no comments have been received.

It is recommended to approve the variance for this particular property on the basis that the original purpose for the subdivision setback standard is no longer appropriate with the reconstruction of Main Avenue and elimination of the frontage road; and the Comprehensive Plan and Zoning Ordinance objectives of improving the community's identity and image through the green space/open space of the boulevard in this area are being accomplished. The variance being requested is in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Applicant John Nore indicated he's been the owner of Visto Sales for the past 5 years and wants to straighten out the property. He's made a number of improvements and is available to answer any questions.

There were no comments from the public. The hearing was closed.

Larry stated that had previous variances not been approved, part of the parking lots would've had to have been torn out. The Main Avenue project created green space.

Commissioner Gust made a motion for approval. Commissioner Zupi seconded the motion. No opposition. Motion carried.

The next item on the agenda was Detailed Development Plans for A15-42 Woodlinn West 4th Addition.

Larry stated since the last meeting the applicant has provided the City with a proposed construction schedule to begin construction on October 2, 2015 (permit at own risk approved by the City Commission on September 21, 2015) and end construction on July 1, 2016. They have also provided a drainage plan and have indicated they will be able to meet all other conditions as noted prior to final approval by the City Commission. City staff is working on a PUD Agreement which will also be completed and signed prior to final approval by the City Commission.

Commissioner Sheeley asked if drainage and construction plans had been submitted. Applicant Roger Fenstad stated that they have and they've begun construction.

Commissioner Sheeley made a motion for approval based on staff recommendations. Commissioner Carlsrud seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - A15-41 Sandhills 3rd Addition, Replat & Rezoning from Agricultural to CM: Heavy Commercial/Light Industrial of Lots 1-15, 17-20 & Lot 22 of Block 6 and all of Block 7, Meadow Brook Park Subdivision; All of Blocks 1, 2 & 3 of Sandhills 2nd Subdivision; and all of Park Boulevard, Archers Boulevard and Sandhills Avenue NW, City of West Fargo, North Dakota.

Larry stated that since the last Planning and Zoning Commission meeting the developer and staff met with Sandhills Archers to discuss development plans and providing temporary access to the archery range when Sandhills Avenue NW would be reconstructed into a different configuration. Access to the archery range does not appear to be a big issue. Some discussion took place regarding additional taxes and special assessments to the archery range property as area improvements are made. It is not known what the figures would be at this point; however it is expected that assessments will be significant. A number of regional type assessments could be expected such as collector roads, storm sewer, sewer lift station, and more localized sewer, water and storm sewer services. The archery range may pursue meeting with elected leaders to see if there will be some consideration to lessening special assessment impacts on them based on the use and purpose.

The developer has been working with adjacent land owners to acquire additional property to provide the minimum right-of-way required for Charyl Avenue NW. They could not come to agreement with one property owner. As such the developer is reviewing their options. They may consider changing plans slightly and re-submitting an application. Other options include continuing to utilize Sandhills Avenue NW as the initial street structure and platting lots from that, and proposing a new street layout for the initial phase. Without utilizing Sandhills Avenue NW as the primary street and staying within the notice area, it will be difficult to move forward with this application.

The developer should provide the Commission with their intentions. If Sandhills Avenue NW is the primary street, then a revised plat would be needed with the rearranged lots. If the developer has other intentions, the current application should be withdrawn, or the Planning and Zoning Commission should deny the application on the basis that it is not consistent with City Plans and ordinances.

Sandhills Archery President Brian Hage asked if the road along the west portion of the proposed development had changed. Larry indicated no, that currently only one plat had been submitted and it was the one mailed to area property owners.

Commissioner Sheeley asked if issues with lots on the north side of Charyl Avenue had been worked out. Larry stated no. Economic Development Director Matt Marshall stated that one of the lots is owned by someone who lives in Canada and they're working on that, the other property owner wants a lot of money and another just wants to stay. He stated that even without this development there will still be special assessments from Main Avenue and 26th Street paving. Sandhills could be added to the TIF (Tax Increment Financing District) so when development occurs, collected taxes could be used for improvements to the area.

There were no comments from the public. The hearing was closed.

Commissioner Sheeley made a motion to deny the request. Commissioner Gust seconded the motion. No opposition. Motion carried.

Commissioner Kolb made a motion to adjourn. Commissioner Carlsrud seconded the motion. Meeting adjourned.